

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff,

v.

JOHN R. KANERVA,

Defendant.

CASE No. 2:24-cv-46

HON. ROBERT J. JONKER

**ORDER APPROVING AND ADOPTING
REPORT AND RECOMMENDATION**

Plaintiff removed this state criminal action to federal court on March 22, 2024. He is proceeding *in pro per*. Concluding that Plaintiff has no basis for removal, the Magistrate Judge has recommended that the case be remanded to the state court. Plaintiff has filed a largely incomprehensible pleading, which the Court construes as objections to the Report and Recommendation in this case.

Under the Federal Rules of Civil Procedure, where, as here, a party has objected to portions of a Report and Recommendation, “[t]he district judge . . . has a duty to reject the magistrate judge’s recommendation unless, on de novo reconsideration, he or she finds it justified.” 12 WRIGHT, MILLER, & MARCUS, FEDERAL PRACTICE AND PROCEDURE § 3070.2, at 381 (2d ed. 1997). Specifically, the Rules provide that:

The district judge must determine de novo any part of the magistrate judge’s disposition that has been properly objected to. The district judge may accept, reject, or modify the recommended disposition;

receive further evidence; or return the matter to the magistrate judge with instructions.

FED R. CIV. P. 72(b)(3). De novo review in these circumstances requires at least a review of the evidence before the Magistrate Judge. *Hill v. Duriron Co.*, 656 F.2d 1208, 1215 (6th Cir. 1981). The Court has reviewed de novo the claims and evidence presented to the Magistrate Judge; the Report and Recommendation itself; and Plaintiff's objections. After its review, the Court finds the Magistrate Judge's Report and Recommendation to be factually sound and legally granted.

After de novo review, the Court overrules Plaintiff's objections and adopts the Magistrate Judge's Report and Recommendation. There is no legal basis for removal and the case is therefore remanded to the state court. The Magistrate Judge accurately identifies the flaws in Plaintiff's Notice of Removal, namely, that it fails to comply with the procedure for removal of a criminal prosecution under 28 U.S.C. § 1455 and that the state action was dismissed with prejudice.

ACCORDINGLY, IT IS ORDERED that the Report and Recommendation of the Magistrate Judge (ECF No. 12) is **APPROVED AND ADOPTED** as the Opinion of the Court.

IT IS FURTHER ORDERED that this matter is **REMANDED** to the state court from which this case was removed for the reasons stated in the Report and Recommendation.

Dated: October 29, 2024

/s/ Robert J. Jonker
ROBERT J. JONKER
UNITED STATES DISTRICT JUDGE